

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**E.J.T.,**

Plaintiff,

v.

**JEFFERSON COUNTY et al.,**

Defendants.

Case No. 3:20-cv-01990-JR

OPINION AND ORDER

**MOSMAN, J.,**

On June 15, 2021, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”) [ECF 30], recommending that Defendants Jefferson County and Tyler Anderson’s Motion to Dismiss [ECF 8] be denied and Plaintiff’s Motion to Certify Questions to the Oregon Supreme Court [ECF 23] be granted. Both sides objected to portions of the F&R. *See* Pl.’s Objs. [ECF 40]; Defs.’ Objs. [ECF 42].


I adopted the F&R on July 16, 2021. Op. & Order [ECF 46]. In adopting the F&R, I denied Defendants’ Motion to Dismiss as to Claims 3 and 4. F&R at 9–10; Op. & Order at 2. These claims against Defendants remain live. I also tentatively denied Defendants’ Motion to Dismiss as to Claims 1 and 2. But I did so pending an answer from the Oregon Supreme Court as to whether such claims are viable under Oregon law. F&R at 13, 14, 17; Op. & Order at 2. These questions were certified to the Oregon Supreme Court, [ECF 56], which responded in a written opinion [ECF 85]. It held that although Claim 1 is not viable under Oregon law, Claim 2 is. *See E.J.T. by & through InTRUSTment, Nw., Inc. v. Jefferson Cnty.*, 370 Or. 215 (2022).

### CONCLUSION

In light of the Oregon Supreme Court's decision, and further to my earlier adoption of Judge Russo's F&R [ECF 30], I GRANT IN PART and DENY IN PART Defendants' Motion to Dismiss [ECF 8]. I GRANT Defendants' Motion as to Claim 1, and I DISMISS WITH PREJUDICE that claim. I DENY Defendants' Motion as to Claims 2, 3, and 4. These claims against Defendants Jefferson County and Tyler Anderson remain live. The stay of discovery is LIFTED. The Parties are ORDERED to provide a joint case management schedule by February 24, 2023.

IT IS SO ORDERED.

DATED this 6<sup>th</sup> day of February, 2023.

  
MICHAEL W. MOSMAN  
Senior United States District Judge